

REMARKS

Claims 1, 3, 7-15, 17-22, and 24-46 are currently pending. Claims 44 and 46 have been amended herein to correct antecedent basis. Further, support for these amendments can be found in the instant specification on page 1, paragraph [0007] and on page 4, paragraph [0048].

Response to Restriction/Election Requirement

In the Office action dated May 15, 2008, an election was required between the following groups of claims:

Group I: Claims 1, 3, 7-15, 24-29, and 41-44, directed to an absorbent structure (class 604, subclass 367); and

Group II: Claims 30-40, 45, and 46, directed to an absorbent article (class 604, subclass 369).

Reconsideration of the restriction requirement is respectfully requested. According to 35 U.S.C. §121, a restriction is proper only if there are at least two independent and distinct inventions. Furthermore, "[i]f the search and examination of an entire application can be made **without serious burden**, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions."¹

In this case, restriction is not proper. The claims of Group I have a common element with the claims of Group II, both groups are directed to products comprising an absorbent structure comprising a first surface opposite a second surface, the absorbent structure expands along the second surface in the presence of a liquid so that the first layer increases concavity, wherein a pocket-like shape is formed in the presence of the liquid, the absorbent structure expands to a lesser extent along the first surface than the absorbent structure expands along the second surface in the presence of liquid, and the absorbent structure has a fluid intake rate of at least about

¹ MPEP §803 (emphasis added).

0.5 cubic centimeters per second or greater. Any search of the prior art and examination involving Group II claims therefore, will substantially co-extend with the search and examination of Group I claims. Furthermore, both Group I and Group II claims have been classified in class 604. Thus, Group I and Group II claims may be searched and examined together without undue burden in accordance with MPEP §803.

Subject to the foregoing traverse, the claims of Group I (claims 1, 3, 7-15, 17-22, 24-29, 41-44, and 46) are elected for examination in this application.

Furthermore, the Office is requiring an election of species. Applicants elect claims 1, 3, 7-15, 41, and 46, directed to a single layer absorbent structure, for examination in this application.

CONCLUSION

Applicants reserve the right to file divisional applications directed to the subject matter of the non-elected claims.

The Commissioner is hereby authorized to charge any government fees which may be required to maintain the pendency of this application to Deposit Account No. 01-2384.

Respectfully Submitted,

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